

THE MONTANA WATERLINE



SUMMER

"Montana's Voice for Montana's Water"

1994

NONDEGRADATION-PROTECTION OR PROTECTIONISM?

Amendments to Montana's water quality laws in 1993 were intended to provide provisions that balance public and environmental protection with the need for economic development. The intent was to allow a means by which our high quality waters can be maintained while allowing specific legal provisions for limited and reasonable levels of reduced water quality. With passage of the law, the Department of Health and Environmental Sciences (DHES) was instructed to develop administrative rules for implementation. Needless to say, environmental zealots within the DHES utilized the opportunity to further expand and tighten water quality restrictions rather than to simply find workable ways to implement the law.

Through a coalition of agricultural and non agricultural interests a level of reasonableness was retained within the rules as approved and put into affect by the Board of Health and Environmental Sciences on August 14,

1994. Many agricultural practices are not immediately affected due to specific exemptions for nonpoint sources, activities defined as non significant and where best management practices are in place. However, we can not misinterpret the level of significance of these rules or their potential impact at both the state and national level. Some common practices such as direct stream flow in feed lots and dairies will be immediately impacted by mandatory programs for control of point and non point sources of pollution.

Possibly the most significant rule approved concerns what is called Outstanding Resource Waters or "ORW's". By definition, ORW means all state waters that are located in national parks, national wilderness, or primitive areas. However, as approved by the Board of Health, ORW also means any state waters that are

identified as possessing outstanding ecological or domestic water supply significance and petitioned for such designation by any individual or organization and subsequently classified as such by the Board of Health. What water isn't ecologically significant to someone? How soon before various environmental groups start petitioning for ORW designations? After the 1995 Legislature adjourns is a good bet. The ORW rule passed even though extensively argued

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CONFERENCE '94

The annual conference of the Montana Water Resources Association will be held in Billings, Montana at the Sheraton Hotel, November 2-4, 1994. The '94 Conference theme is: "CLEAN WATER - ECONOMIC DEVELOPMENT: A BALANCING ACT". This year the MWRA conference is being held in conjunction with the Upper Missouri Water Users Assn., a four state association comprised of the Montana, North Dakota, South Dakota, and Wyoming Water Resources Associations. Considering the multitude of issues facing water users, the combined conference offers an excellent opportunity for interaction and discussion. Effective utilization of our combined energy and resources is essential.

We have an exciting program and presentations of concern and interest to us all.

"CLEAN WATER-ECONOMIC DEVELOPMENT: A BALANCING ACT"

Joint Annual Conference
Montana Water Resources Association
Upper Missouri Water Users Association

WEDNESDAY, NOVEMBER 2

8:00am-12:00pm MWRA Membership Meeting
11:00am-1:30pm Early Registration
1:30pm-4:30pm Tour
6:00pm-9:30pm MWRA Social, Banquet and Fund Raising Auction. Senator Conrad Burns (invited)

THURSDAY, NOVEMBER 3

7:00am-10:00am Registration Cont.
7:00am-8:00am Continental Breakfast
8:00am-8:20am Welcome/Opening Remarks Bill Keiry, President-UMWUA, Jay Chamberlin, President MWRA, & Dick Larsen, Mayor-Billings
8:20am-8:50am Speaker- Neil Stessman, Dir Great Plains Region "Reclamation Activity"
8:50am-9:20am Speaker-To Be Determined
9:20am-9:40am Exhibitor Introductions
9:40am-10:00am Break-Exhibit Area
10:00am-12:00pm Endangered Species-Panel -Tom Graves-Midwest Electric Cons. Assn. -Doug Latka-Corps of Engineers -Al Sapa-USFWS(invited) -Stan Grace-NW Power Planning Council
12:00pm-1:45pm Luncheon (Speaker-BOR)
1:45pm-4:30pm Spouses Tour

THURSDAY, NOVEMBER 3 (cont.)

1:45pm-2:15pm Missouri Master Manual-Larry Cieslik, US Corps Bur. of Rec. Contracts-Harvey Hutchinson, Engineer.-Sciences Inc.
2:15pm-2:45pm Break-Exhibit Area
2:45pm-3:15pm Speaker-David Taylor-"Coors Pure Water 2000"
3:15pm-3:45pm UMWUA Business Meeting
3:45pm-5:00pm Banquet, Speaker-Lt.Gov, Dennis Rehberg
6:00pm-9:30pm

FRIDAY, NOVEMBER 4

7:00am-8:30am Prayer Breakfast
8:30am-9:00am Speaker-Bill Yellowtail, Admin., EPA Region 8
9:00am-9:30am "EPA Water Issues" Speaker-John Chaffin-Asst. Solicitor, Dept of Interior "Tribal Res Water Rights"
9:30am-10:00am Speaker-Tom Donnelly, Exec VP, National Water Resources Association
10:00am-10:30am Speaker-Mark Simonich, Director, DNRC "Montana and Upper Missouri River Basin Issues"
10:30am-11:00am Closing Remarks
11:00am-11:15am Drawing For Door Prizes (Must Be Present To Win)
11:15am Adjournment

CONFERENCE '94 (cont.)

MWRA Conference '94 fund raising will be highlighted by the auction following the MWRA sponsored banquet on Wednesday, November 2nd. If you have a nice item or two that you can donate to the MWRA and include in the auction, please bring them with you. Each of the other three states have indicated that they will provide a nice item to assist our fund raising efforts.

COME OUT AND SHOW YOUR SUPPORT FOR OUR MONTANA WATER RESOURCES ASSOCIATION, PLEASE PLAN TO ATTEND! Be sure to register early and save \$25 on the registration fee.

Room reservations can be made at the Billings Sheraton Hotel by calling 406-252-7400. A block of rooms will be held through October 18th at a special conference rate of \$42 single and \$52 double occupancy per night for the nights of November 1-3, 1994.

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CONFERENCE '94
"CLEAN WATER-ECONOMIC DEVELOPMENT: A BALANCING ACT"
MONTANA WATER RESOURCES ASSOCIATION
UPPER MISSOURI WATER USERS ASSOCIATION

REGISTRATION FORM

Early registration must be paid by October 18, 1994 (the registration fee includes spouse, but does not include meals and tours) and must include payment of all fees including registration and selected meals and tours. The registration fee for Montana residents includes registration for both MWRA and UMWUA. Registration after October 18th or at the door will cost an additional \$25.

Montana Resident Registration Fee.....	\$ 75	\$ _____
Registration After October 18th or at Conference, early registration Fee plus \$25 equals.....	\$100	\$ _____
Wednesday, November 2nd Afternoon Tour (each).....	\$ 10	\$ _____
MWRA Banquet, November 2nd (each).....	\$ 20	\$ _____
Luncheon, November 3rd (each).....	\$ 10	\$ _____
Spouses Tour, November 3rd (each).....	\$ 15	\$ _____
Banquet, November 3rd (each).....	\$ 20	\$ _____
Prayer Breakfast, November 4th (each).....	\$ 8	\$ _____
	TOTAL	\$ _____

NAME(s) (please print) _____

REPRESENTING _____

MAILING ADDRESS _____

CITY _____ STATE _____ ZIP _____ PHONE _____

Please make checks payable to UMWUA and return this registration form with your check to: UMWUA, 1104 Westwood Drive, Pierre, SD 57501 or MWRA, 501 North Sanders, Helena, Montana 59601.

NONDEGRADATION-PROTECTION OR PROTECTIONISM? (cont.)

that the rule is far too broad and vested too much authority with the Board of Health.

Why is the ORW rule so important? Under the non degradation rule as passed, ORW's may not be degraded, period. ORW's are also an intricate aspect of the extremist environmentalist agenda to control states rights as well as private property rights through federal legislation such as the Clean Water Act. The extremist argument, if it's good for Montana it should be good enough for the nation.

Although some exemptions are provided for nonpoint and activities determined to be non significant, agriculture and other water users will inevitably find it necessary to establish and maintain best management practices. The Dept. of Health will undoubtedly find certain actions to be significant and require application for degradation approval as per the rules and in most cases will be done at the request of the public. If a water user is considering an activity that may impact either surface or ground

water and could be found to be significant, a call to the Mt Dept of Health and Environmental Sciences may be warranted at 444-4549.

Legislative intent was aimed at providing a balanced and workable means for water quality protection and responsible economic growth. However, the nondegradation rules as approved go too far toward preventing or impeding use of our water resources and may very well be the foundation for significant obstruction/protectionism.

LATE CLAIMS STUDY

After studying the issue for almost one and a half years, the Montana Legislative Water Policy Committee made a preliminary recommendation to provide no additional forfeiture remission to water right holders who missed the 1982 filing deadline. This action, which the Committee stressed is only

preliminary, provides no additional forfeiture remission provisions beyond those extended to late filers by the 1993 Legislature in Senate Bill 310. The Committee will continue to discuss this issue over the next couple of months. Anyone wanting to comment regarding the recent decision is encouraged to send their

comments to: Montana Water Policy Committee, in care of the Environmental Quality Council, Capitol Station, Helena, Montana 59620.

Those who have not filed on respective water rights are encouraged to do so as provided for under SB 310. Late filings will be accepted until July 1996.

METHODS TO REDUCE TROUT LOSSES

The loss of fish from irrigation or other water use activities is of concern to all irrigators and diversion operators.

A publication entitled "Methods to Reduce Trout Losses in Irrigation Diversions" is available from the Mt Dept. of Fish,

Wildlife, and Parks, 1420 East Sixth Avenue, Helena, Mt. 59620 or 406-444-2449.

MONTANA'S VOICE FOR MONTANA'S WATER!

Private property rights, including water rights are literally under attack from extremist environmental movements and changing social philosophy. Maintaining our water and other private property rights in the future will be even more difficult than in the past. A strong voice and unified commitment is crucial.

The **MONTANA WATER RESOURCES ASSOCIATION (MWRA)** is continually working to protect our rights! The MWRA employs an Executive Director to provide participation in state and national water and other private property issues and policy development.

Through affiliation with the National Water Resources Association (NWRA), Montana benefits

from extensive lobbying efforts as well as the knowledge and resources of a staff committed to issues at the national level.

MWRA supports and lobbies for legislation and policy at the state level and provides assistance in preparation, development, and introduction of state legislation and policy.

Your support for the **MWRA** is crucial! With your help the MWRA will continue to be, as it has for fifty years, an effective and strong advocate for water and other private property rights of hard working Montanans. With your help MWRA will remain Montana's Voice for Montana's Water.

Membership rates for individuals, businesses, and municipalities and an application are provided for your consideration.

<u>MEMBERSHIP CATEGORY</u>	<u>ANNUAL DUES</u>
Individual	
Voting.....	\$75
Non Voting.....	\$25
Business/Firm	
< 10 Employees...	\$225
10-100 Employees..	\$565
> 100 Employees..	\$790
Irrigation Dist./Assn.	
Minimum Base.....	\$225
Plus, First 5,000 Acres....	\$.045/Acre
Plus, Acres Over 5,000....	\$.034/Acre
Municipality	
City, Town, or County	\$.075 Per Cap.
Other.....	\$225
REA & RTA.....	\$335
Sustaining Memberships	
Silver.....	\$1,500
Gold.....	\$2,000
Platinum.....	\$3,000
Associate Contribution	

MONTANA WATER RESOURCES ASSOCIATION Membership Application

<u>Membership Category</u>	<u>Check One</u>	
Individual.....	_____	Name of Individual, Business, Municipality, or Other.
Business/Firm.....	_____	
Irrigation Dist. or Assn.	_____	
Municipality or Pol. Sub.	_____	
REA & RTA.....	_____	Street, Box #, Etc.
Sustaining Member.....	_____	
Associate Contribution...	_____	City State Zip

Please include a check for the amount of the annual dues as indicated above. Please indicate check amount \$_____, check #_____, and Phone #_____. If you have questions or would like to discuss membership, please don't hesitate to call at (406) 442-9666.

THANK YOU FOR YOUR PARTICIPATION

BULL (Not a Steer) Trout

The Bull Trout Restoration Group established by Governor Marc Racicot was intended to avoid generalized across the board actions and provide for local area input and solutions for enhancing Bull Trout habitat and populations. The MWRA requested membership when the Restoration Group was established in order to provide representation and input on an extremely lopsided environmental committee. The MWRA as well as other resource industry organizations were denied membership based on the rationale that the group should be kept small to be productive and that we would be given ample opportunity for input at the basin/watershed level.

A "scientific group" was determined to be necessary by the Restoration Group and formed through the Dept. of Fish, Wildlife,

and Parks. The scientific group recently presented draft basin status reports and a list of conservation actions for "region wide implementation" by the watershed groups, yet to be formed. The reports and recommendations listed land management activities as a principle threat to the Bull Trout and recommended voluntary restrictions in timber harvest, grazing, and other agricultural activities within streamside management zones of 100 feet or more. Sound Familiar? These across the board strategies and action plan implementation assumptions are not consistent with Governor Racicot's original intent, but are certainly not surprising in light of the heavily weighted environmental restoration and scientific groups. So much for input and development of local basin specific solutions. As the

restoration group was established by the Governor it will be difficult to prevent interim committee recommendations from becoming permanent.

Resource industries have been well represented by the one resource industry committee member from Plum Creek Timber Co. However, it is extremely important that agriculture and other resource industries participate extensively in the formation of local basin or watershed groups and play a substantial role in future implementation efforts.

A Bull Trout Restoration Group meeting will be held October 5, 1994 at 9:00 a.m. in Kalispell to further review and decide on which restoration actions to adopt. Balanced Bull Trout restoration is possible, while retaining private property rights and jobs.

WATER SPREADING

Under a new Bureau of Reclamation definition, water spreading is the unauthorized use of reclamation project water or facilities to irrigate acres that are not classified within an irrigation district. With the rapid expansion of sprinkler irrigation it became feasible to irrigate

additional acres that were not irrigatable when the districts were formed. In the past, the Bureau of Reclamation has allowed the districts to provide water for these and other purposes through service contracts. Under draft policy the Bureau of Reclamation intends to curtail water spreading.

It appears that the primary intent of these and other reclamation reform measures such as benefit reductions and conservation plans are to put more water instream and possibly to force irrigation districts to renegotiate contracts. National Water Resources Association representatives

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CONGRESSIONAL ACTION (ON THE ROPES, BUT NOT OUT)

It appears that Congress will not pass most of the Environmental legislation introduced this year. The Clean Water Act reauthorization bill, sponsored by Senator Max Baucus, which passed the Senate Environment and Public Works Committee is locked in committee debate in the House and lacks support in the senate.

Although a bill (S. 2019) passed the Senate, Safe Drinking Water Act SDWA reauthorization is still debated in the House with environmentalists lobbying for stricter environmental control. However, after weeks of debate, the House Energy and Commerce Committee overwhelmingly passed a compromise SDWA. The SDWA Coalition of which the National Water Resources Association (NWRA) is a member has expressed support for the compromise language as an improvement to existing statute in many important ways. Most organizations were relieved to see that the bill does not include an expansion of citizen law suit authority. Although not included in the current House version, risk assessment/cost benefit analysis is expected to be added to the bill on the House floor. This legislation and possible revolving loan program appropriations for water treatment facilities could pass this year.

A common factor impacting the various environmental bills is debate over common sense concern for the taking of private property rights and the impact on people and the economy vs extreme environmental protectionism. Concern for unfunded federal mandates and required consideration for cost/risk assessment of environmental preservation round out the three elements of what the environmental community is calling the unholy trinity. These concepts are the elements of reason and the impetus to a responsible debate of various environmental legislation. It is this demand for reasonable concern for people and private property rights that also make it unlikely that Endangered Species or Wilderness legislation will pass this session of Congress.

This apparent Congressional concern for the rights of people and reason has alarmed many environmental extremists who are calling the situation a crisis. A letter signed by 15 major environmental organizations was mass mailed to the environmental community. The letter urges a concerted effort by environmentalists to attack strong resource industry efforts to obtain reasonable and responsible federal legislation.

With organizations such

as the National Water Resources Association, Montana Water Resources Association, and many others working with Congress for reason and fairness in legislation, environmental extremists are now working with the administration and agency rule making authority at both state and national levels to push control measures through such concepts as "eco-system management and forest planning processes, nondegradation, and grazing, mining, and reclamation reform. Such rule making efforts consistently aim at reducing public access and use of our natural resources as well as controlling the use of our private property for the socialistic agenda.

Although a number of environmental bills are down or at least on the ropes and passage is not likely this year, they are far from out. These issues and respective legislation will certainly be addressed again next year. It will be a difficult, but achievable task for the working men and women of this country to ensure that passage of such important legislation as these are reasonable and balanced.

MISSOURI RIVER MASTER MANUAL

According to the U.S. Army Corps of Engineers, higher water in the springtime and lower water levels and a resulting shorter navigation season in the fall would benefit the environment and the recreation industry without substantially harming the economy along the Missouri River. The current operating strategy is to maintain relatively stable flows from April through November.

Information meetings and public hearings were held during September and October in Montana, North Dakota, and South Dakota by

the Corps to explain the rational of their preferred alternative and receive comments on the draft environmental impact statement. Additional meetings are scheduled in Nebraska, Iowa, Kansas, and Missouri. These lower river basin states oppose the preferred option, contending that shortening the navigation season by a month in the fall would significantly impact the economy in that region as well as impacting wildlife habitat, utilities, flood control, and drinking water supplies.

The Corps made its'

selection of the a preferred alternative after nearly five years of research and model simulations of various flows and releases on the river. The Corps has defended the selected alternative as the alternative that leaves most factors unchanged, but that they contend benefits the environment through more natural spring and fall water levels.

For more information, contact Paul Johnston, Corps Missouri River Division, Omaha Nebraska. (402) 221-7208

LAKE COMO TO RECEIVE FACE LIFT

The Bureau of Reclamation has awarded a \$1.3 million construction contract for Phase II dam modifications at Como Dam located about 15 miles South of Hamilton.

Dam modifications will include enlargement of the dam built and funded by Montana irrigators, to raise the operating level 3.3 feet. The additional

storage will be used to increase stream flows in the Bitterroot River.

The completed 80 foot dam will have a total capacity of 38,500 acre feet.

INSTREAM FLOW - CONSENSUS?

Heightened by drought conditions, instream flow and beneficial use are certain to be an issue during the upcoming legislative session. The Montana Water Resources Association, Montana Stockgrowers Association, and Association of Conservation Districts have been meeting with the

Wildlife Federation and Trout Unlimited in an effort to find consensus regarding the instream flow issue. The discussions have been facilitated through the Governor's recently established Montana Consensus Council.

While acknowledging the need for cooperation and trust the environmental

organizations have used the press to publicly criticized agriculture on several occasions during discussions. In a letter to Governor Raciocot, the MWRA expressed concern for the prospects of success as a result of the continual lack of respect for the basic ground rules of consensus building.

WATER SPREADING (cont.)

from twelve western states including Montana met this Summer in Nevada to discuss this and other Reclamation Reform issues.

An interim water spreading policy was released on September 15. The interim policy applies

to all land located outside the project service area or without an historic account of project use. These acres must be reported on 1982 RRA forms which may cause some landowners to exceed acreage limitations. Under the policy, if

acreage limitations are exceeded, ineligible land must be designated as excess or full cost acres. This interim policy is effective January 1, 1995.

Public hearings regarding the water spreading issue have been delayed.

UPPER CLARK FORK COMMITTEE RELEASES DRAFT PLAN

Development of a management plan for the Upper Clark River Basin was mandated by the 1991 Montana Legislature through Senate Bill 434. The draft

plan was released by the committee, in September, after nearly three years of discussion and negotiation. Major recommendations within the plan include:

basin closure, storage, and pilot study instream flow measures. To obtain a copy of the draft plan, contact the Dept. of Natural Resources and Conservation.

PROFESSIONAL DIRECTORY

MWRA provides this service for members of the Association. Inclusion does not imply a recommendation or preference.



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THE MONTANA WATERLINE

Dear Montana Water Users:

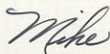
It was comforting to hear Interior Secretary, Bruce Babbitt comment that he didn't want to take all the water away from irrigators. However, you do have to wonder which dams are highest on his list of priority to destroy. In his words, he "would love to be the first secretary of Interior to tear down a really large dam". Secretary Babbitt also commented that they are in his words, "working to correct 100 years of mistakes in water policy".

These and similar comments by Mr. Babbitt and others within the administration clearly indicate that the affront on the West and traditional values of hard working Montanans, is real. These comments and related agency actions amplify the importance of the balanced and responsible representation provided by the Montana Water Resources Association (MWRA), a voice in defense of our water and other private property rights. We all share a sincere concern for our environment. However, that concern must be balanced with the need for responsible economic growth, jobs, and the rights of people.

We cannot afford to wait for someone else to defend our water and other rights. Your help is needed! **Make the effort to join the MWRA! Make a special effort to attend the annual MWRA Conference in November!**

See you in November!

Sincerely,



Michael E. Murphy, Exec. Dir.

Coming Events:

MWRA CONFERENCE "94

Billings, Montana

November 2-4, 1994.

THE MONTANA WATERLINE

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